

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Inbound E-Format Letter Post

Docket No. CP2020-120

**MOTION OF THE ASSOCIATION FOR POSTAL COMMERCE  
FOR ACCESS TO NONPUBLIC MATERIALS**  
(April 21, 2020)

Pursuant to 39 C.F.R. § 3007.40, the Association for Postal Commerce (“PostCom”) respectfully requests access by one of its outside counsel and its President to the nonpublic material provided with the Postal Service’s Notice of Specific Rates Not of General Applicability for Inbound E-Format Letter Post for 2021 (“Notice”) on April 10, 2020. Specifically, PostCom requests access to the unredacted version of Attachment 2, containing the list prices for Inbound Letter Post Small Packets and Bulky Letters, and the unredacted version of Attachment 4, Governor’s Decision No. 19-1.

Access to these prices, and the Governors’ basis for approving the prices, is necessary for PostCom to effectively participate in this docket. PostCom cannot comment on whether the Postal Service’s filing is consistent with 39 U.S.C. §§ 3632 and 3633 and 39 C.F.R. Part 3015 if it does not know the prices being charged or general information above the cost coverage of these prices. *See* Order No. 5479 at 2. The only potential harms the Postal Service identifies related to disclosure of the prices themselves, as opposed to the prices in combination with other data in the financial workpapers, involve foreign postal operators using the rates to set their own self-declared rates or negotiate lower rates with the Postal Service. Notice, Attachment 1, at 5-7. As PostCom is not a foreign postal operator or involved in any way in setting prices for any

foreign postal operators, disclosure of this information to PostCom will not cause any harm to the Postal Service.

Accordingly, PostCom requests that the Commission authorize the following individuals to review the nonpublic material:

Matthew D. Field, partner, Venable LLP

Michael Plunkett, President and CEO, PostCom

PostCom submits that there are no competitive concerns associated with providing access to the material to the individuals listed above. One of the individuals is counsel to PostCom with no role in competitive decision-making for any Postal Service competitor or foreign post. The second individual is the President and CEO of PostCom, an organization that is not itself a competitor of the Postal Service and has no role in the competitive decision-making for any Postal Service competitor or foreign post. Neither of the identified individuals are responsible for activities related to “pricing and marketing strategies” that could be detrimental to the Postal Service. Attached are executed declarations by the two individuals committing to their compliance with the terms of the protective conditions established by the Commission to limit the disclosure and use of the sealed material.

Respectfully submitted,

*/s/ Matthew D. Field*

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## STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The Postal Service has filed non-public materials identified as Attachment 1 and Attachment 4 to the Notice of the United States Postal Service of Specific Rates Not of General Applicability for Inbound E-format Letter Post for 2021 in Commission Docket No. CP2020-120. The Postal Service has requested confidential treatment of the materials (hereinafter “these materials”).

The following protective conditions limit access to these materials. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is limited to a person as defined in rule 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matters identified as Docket No. CP2020-120, *Competitive Product Prices, Inbound E-Format Letter Post*. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. “Involved in competitive decision-making” includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Immediately after access has terminated under rule 39 C.F.R. §§ 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:
  - (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and

- (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
  5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.
  6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matters identified as Docket No. CP2020-120, *Competitive Product Prices, Inbound E-Format Letter Post*.
  7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
  8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
  9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
  10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

## CERTIFICATION

The undersigned represents that:

Access to Attachments I and 4 of the Notice of Specific Rates Not of General Applicability for Inbound E-Format Letter Post for 2021, in Commission Docket No. CP2020-120, *Competitive Product Prices, Inbound E-Format Letter Post*, has been authorized by the Commission.

The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. CP2020-120, *Competitive Product Prices, Inbound E-Format Letter Post*. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Signature: */s/ Matthew D. Field*

Matthew D. Field  
Partner, Venable LLP  
*Counsel for Association for Postal Commerce*

April 21, 2020

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The undersigned represents that:

Access to Attachments I and 4 of the Notice of Specific Rates Not of General Applicability for Inbound E-Format Letter Post for 2021, in Commission Docket No. CP2020-120, *Competitive Product Prices, Inbound E-Format Letter Post*, has been authorized by the Commission.

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Signature: */s/ Michael Plunkett*

Michael Plunkett  
President and CEO, Association for Postal  
Commerce

April 21, 2020